

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 029573-0401						
I hereby certify that this correspondence is being deposited via EFS-Web and addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] On: August 21, 2008 Signature: /Jessica A. Harvey/ Typed or printed name: Jessica A. Harvey		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">Application Number 10/613,897</td> <td style="padding: 5px;">Filed 7/2/2003</td> </tr> <tr> <td colspan="2" style="padding: 5px;">First Named Inventor Robert W. BOESEL</td> </tr> <tr> <td style="padding: 5px;">Art Unit 2182</td> <td style="padding: 5px;">Examiner Henry W. Yu</td> </tr> </table>	Application Number 10/613,897	Filed 7/2/2003	First Named Inventor Robert W. BOESEL		Art Unit 2182	Examiner Henry W. Yu
Application Number 10/613,897	Filed 7/2/2003							
First Named Inventor Robert W. BOESEL								
Art Unit 2182	Examiner Henry W. Yu							
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor. _____ /G. Peter Albert Jr./ Signature</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) _____ G. Peter Albert Jr. Typed or Printed Name</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number 37,268 _____ (858) 847-6735 Telephone Number</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____ August 21, 2008 Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input checked="" type="checkbox"/> *Total of 1 forms are submitted.</p>								

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Robert Boesel, et al.
Title: BUFFERING METHOD AND
APPARATUS FOR PROCESSING
DIGITAL COMMUNICATION
SIGNALS
Appl. No.: 10/613,897
Filing Date: 7/2/2003
Examiner: YU, Henry W.
Art Unit: 2182
Confirmation 9534
Number:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the New **Pre-Appeal Brief Conference Pilot Program**, announced July 11, 2005, this Pre-Appeal Brief Request is being filed together with a Notice of Appeal.

REMARKS

Claims 1-4, 6-7, 9-15, 17 and 22 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Publication No. 2002/0176489 to Sriram et al. (hereinafter "Sriram"). Applicant respectfully traverses the rejection for at least the following reasons.

Embodiments of the present invention relate to buffering methods and systems. As described in the specification, while conventional buffering methods are based on a clock signal

from a master time, embodiments of the present invention allow a processor to not be synchronously clocked by the sample rate. In this regard, the processor is allowed to obtain data from sample buffers as needed. In accordance with embodiments of the present invention, a buffer is inputted conditional on the next buffer being inputted, as recited in the pending claims. For example, claim 1 recites “receiving samples at a third buffer during the processing of the first group of symbols.” Independent claims 9, 10, 13, 17 and 22 each recite a similar feature.

By contrast, Sriram fails to teach or suggest at least this feature of the pending claims. In accordance with the disclosure of Sriram, the stated purpose of the input to the buffers is to detect time changes for the correlator. As noted above, in accordance with embodiments of the present invention, the buffers allow a processor to not be synchronously clocked by the sample rate.

Further, while embodiments of the present invention provide that the previous buffer is inputted conditional on the next buffer being inputted, Sriram fails to teach or suggest that a specific buffer input is pointed to with each group of sample inputs. Instead, the cited portions of Sriram merely disclose the availability of two buffers, but fail to specify any order or explicit instruction to which the buffers must be utilized.

In the “Response to Arguments” section of the pending Office Action dated March 21, 2008, the Examiner alleges that the claims fail to recite specific elements argued within the previously filed response and, therefore, the claims are open to interpretation. See Office Action dated March 21, 2008, Page 3. Applicant respectfully disagrees with the Examiner’s position.

The Examiner argues that “a group of samples could still be received if nothing is received at the previously mentioned buffer.” Office Action dated March 21, 2008, Page 3. Applicant respectfully notes that independent claim 1 recites “receiving samples at a third buffer during the processing of the first group of symbols” (Emphasis added). Thus, in accordance with claim 1, “processing from all known paths a first group of symbols” and “receiving samples at a third buffer during processing of the first group” are clearly recited. Accordingly, in

accordance with embodiments of the present invention, the time at which a sample enters, or is received, at the third buffer is conditional on the fact that a first group of samples (from all known paths) is being processed in the first buffer. Thus, no samples could be received at the third buffer if nothing was being processed at the first buffer. Otherwise, receiving of samples at the third buffer would not be occurring during the processing at the first buffer.

Further, in accordance with embodiments of the present invention, a synchronous clock is irrelevant if the time period at which the sample enters a buffer occurs only when (or “during”) other samples are being processed at other buffers. Thus, in sharp contrast to the disclosure of Sriram, no time measurements or clocking are necessary.

Further, in the “Response to Arguments” section of the pending Office Action, the Examiner alleges Figures 1 and 2 of Sriram show that there are sections that point to specific portions, making it comparable to processing technique within the present claims. See Office Action dated March 21, 2008, Page 4. Applicant respectfully notes that Sriram discloses that processing occurs based on time tracking as read from a separate element called the Rake receiver. See Sriram, Paragraphs [0040]-[0043]. When a specific sample arrives at a chip, it is placed at a position dependent on the time associated with it not the sample itself. Thus, as previously noted by Applicant, in accordance with embodiments of the present invention, a specific buffer is pointed to with each group of sample inputs. Sriram fails to teach or suggest at least this feature of the claimed invention.

Accordingly, independent claims 1, 9, 10, 13, 17 and 22 are patentable. Claims 2-4, 6-7, 11-12 and 14-15 each depend, either directly or indirectly, from one of allowable claims 1, 10 or 13 and are, therefore, patentable for at least that reason, as well as for additional patentable features when those claims are considered as a whole.

Claims 5, 8 and 16 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sriram in view of various other references. Claims 5, 8 and 16 each depend, either directly or indirectly, from one of allowable claims 1 or 13 and are, therefore, patentable

for at least that reason, as well as for additional patentable features when those claims are considered as a whole.

Claims 18-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sriram in view of U.S. Patent Publication No. 2001/0038633 to Robertson et al. (hereinafter "Robertson"). Applicant respectfully traverses this rejection for at least the following reasons.

Independent claim 18 recites features similar to those noted above with reference to independent claims 1, 9, 10, 13, 17 and 22. As noted above, Sriram fails to teach or suggest at least the above-noted features. Robertson fails to cure this deficiency of Sriram. Robertson is merely cited for its alleged disclosure of a buffer with five entries. Nowhere does Robertson teach or suggest the above-noted feature of the independent claims.

Accordingly, independent claim 18 is patentable. Claims 19-21 depend, either directly or indirectly, from allowable claim 18 and are, therefore, patentable for at least that reason, as well as for additional patentable features when those claims are considered as a whole.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance.

Respectfully submitted,

Date August 21, 2008

By /G. Peter Albert Jr./

FOLEY & LARDNER LLP
Customer Number: 30542
Telephone: (858) 847-6735
Facsimile: (858) 792-6773

G. Peter Albert Jr.
Attorney for Applicant
Registration No. 37,268